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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/493,188	01/28/2000	Hidehiro Ishii	P7156-9071	1906

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EXAMINER

PATEL, GAUTAM

ART UNIT PAPER NUMBER

2627

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/493,188	Applicant(s) ISHII ET AL.	
	Examiner Gautam R. Patel	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 47-52, 56-58, 67-68 and 70 is/are allowed.
- 6) ☒ Claim(s) 7-46, 53-55, 59-66, 69 and 71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 7-71 are pending for the examination.

RCE STATUS

2. The request filed on 6/5/06 for Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application is acceptable and a RCE has been established. An action on the RCE follows.

Objection to Specification

3. The disclosure is objected for following reasons.
4. The supplemental amendment filed 7/14/06 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:
 - a. the concept of “data being recorded on one stream in time series” is neither discloses or explained in the specification at all. The page 8 lines 1-8 simple states what a multiplexed and multi-channel audio is, and audio that consist of two or more individual sets have the same time base.

Applicant is required to cancel the new matter in the reply to this Office Action.

Corrections are required.

Claim Rejections - 35 U.S.C. § 112

5. The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 7-46, and 62-66 are rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably

convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

Page 8, lines 1-8 [as pointed out by the Applicants in REMARKS] simply states that “multiplexed audio refers to multiple-language audio information and audio which consists of two or more sets have the same time base”. The specification does not disclose at all that “the each audio data is formed with a different recording mode or data being recorded on a s one stream in time series”. As a matter of fact the words different and series does not show up in the specification at all, much less the concept of “time series”.

6. The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-46, and 62-66 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7, lines 9-11 is confusing and unclear. It is not clear what is meant by different recording modes, since they are not defined at all in the specification and what is “time series” and how it is used in recording in one stream.

Claim 7, lines 9-11 the scope of “one stream in time series” lacks proper antecedent basis.

Claims 15, 23, 31, 39 have the same problem.

7. A search based on the best understanding of the claims has been made to find the most pertinent art, but no statement about invention will be appropriate at this time regarding the allowableness of claims 7-71 and no art rejection will be made in this office action regarding the claims 7-71, due to the speculation required to interpret the claims because of their indefiniteness under 35 U.S.C. 112, 1st and 2nd paragraphs as noted above (see In re Steele, 134 USPQ 292).

8. Applicant's arguments with respect to claims 7-71 have been considered but are moot in view of the new grounds of rejection.

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9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 53-55, 59-61, 69 and 71 are rejected under 35 U.S.C. § 102(e) as being anticipated by Heo, US. patent 6,167,192 (hereafter Heo).

As to claim 53, Heo discloses the invention as claimed [see Figs. 2-20 especially 2-8 and 14] including a video data recording area, a video manager recording area and control information indicating audio data intermingled from different recording modes, comprising:

A reading device [inherently present when data is recoded] which reads the control information from the video manager recording area of the recording medium; and

A controller [since data is managed controller is inherently present] which controls the reproduction of the audio data recorded in the video data recording area of the recording medium based on the control information [fig. 2 and col. 4, lines 36 to col. 5, line 23].

10. The aforementioned claim 54, recites the following elements, inter alia, disclosed in Heo:

The control information also includes channel numbers [00b, 010b etc.] [TABLE 1 and TABLE 6].

11. The aforementioned claim 55, recites the following elements, inter alia, disclosed in Heo:

The channel number data indicates multiplexed audio data [stereo], multi-channel audio data, and monaural [mono] audio data [TABLE 3 and TABLE 6 & col. 6, line 31 to col. 7, line 12; col. 16, lines 1-10].

NOTE: Stereo is a type of multiplexed audio.

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12. The aforementioned claim 69, recites the following elements, inter alia, disclosed in Heo:

The video manger recording area is located inward of the video data recording area [fig. 2; col. 4, line 36 to col. 5, line 23].

13. As to claims 59-61 and 71, they are method claims corresponding to claims 53-55 and 69 respectively and they are therefore rejected for the similar reasons set forth in the rejection of claims 53-55 and 69 respectively, above.

14. Applicant's arguments with respect to claims 7-71 have been considered but are moot in view of the new grounds of rejection.

ALLOWABLE SUBJECT MATTER

15. Claims 47-52, 56-58, and 67-68, 70 are allowed over the prior art of record.

Other prior art cited

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a) Kinoshita et al. (US. Patent 4,445,151) “**Video tape recording with audio mode recording..**”. Discloses clear concept of **mixing of modes** and separating them afterwards.
- b) Hayashi et al. (US. patent 4,523,236) “video signal recording ...”.

Contact information

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is 571-272-7625. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.

The appropriate fax number for the organization (Group 2650) where this application or proceeding is assigned is 571-273-8300.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Dwayne Bost, who can be reached on (571) 272-7023.

Any inquiry of a general nature or relating to the status of this application should be directed to the Electronic Business Center whose telephone number is 866-217-9197 or the USPTO contact Center telephone number is (800) PTO-9199.



GAUTAM R. PATEL
PRIMARY EXAMINER

Gautam R. Patel
Primary Examiner
Group Art Unit 2627

July 22, 2006